



**PITT COUNTY
LEGAL DEPARTMENT
1717 WEST FIFTH STREET
GREENVILLE, NORTH CAROLINA 27834**

TELEPHONE: (919) 830-6374
FAX: (919) 830-6311

COPIED FOR LATE FILED

DOCKET FILE COPY ORIGINAL

ASSOCIATE COUNTY ATTORNEY
PAMELA WEAVER BEST

STAFF ATTORNEY
AMY K. COONEY

April 10, 1996

DOCKET FILE COPY ORIGINAL

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

Dear Mr. Caton:

Re: CS Docket No. 96-46

Enclosed please find an original and ten (10) copies of Pitt County's Reply in the above-captioned matter. Please return one filed copy to my office. I have enclosed a postage prepaid, return envelope for your convenience.

Thank you for your attention to this matter.

Sincerely,


Pamela Weaver Best

cc: Mr. Larry Walke
Cable Services Bureau
Federal Communications Commission
2033 M Street, N.W.
Suite 140
Washington, D.C. 20554

Susan Moran, Cable Services Coordinator

EX-100 OR LATE FILED

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

10/11/96

FCC MAIL ROOM

In the Matter of)
Implementation of Section 302 of)
the Telecommunications Act of 1996)
Open Video Systems)

CS Docket No. 96-46

REPLY COMMENTS OF PITT COUNTY

PITT COUNTY respectfully submits these reply comments to the Federal Communications Commission ("Commission" or "FCC") in the above-captioned proceeding.

I. INTRODUCTION

On March 11, 1996, the Commission released a Notice of Proposed Rulemaking (FCC 96-99) (Notice), requesting comment on how it should implement the regulatory framework for open video systems ("OVS"). In response, the National League of Cities, the National Association of Telecommunications Officers and Advisors, the National Association of Counties, the U.S. Conference of Mayors, Montgomery County, and several cities (hereinafter "NLC"), filed joint comments containing specific proposals for implementing that framework.

In their comments, NLC identified four key principles that must guide the Commission in formulating its rules. First, the Commission's rules regarding the PEG and other Title VI requirements mandated by Congress for OVS must ensure that OVS operators will meet local community needs and interests. Second, the Commission must adopt nondiscrimination provisions that ensure

that all programmers will have truly open and affordable access to OVS and that prevent an OVS from becoming a cable system in disguise. Third, the 1996 Telecommunications Act does not permit cable operators to become OVS operators. Fourth, the Commission's rules must acknowledge the property interests that local governments hold in the local public rights-of-way.

PITT COUNTY strongly supports NLC's comments and urges the Commission to follow these four principles in formulating OVS rules. PITT COUNTY discusses below its experience in creating and implementing PEG obligations that meet critical local needs. The Commission's statutory mandate in adopting PEG requirements for OVS is clear. As NLC notes, the Telecommunications Act of 1996 requires the Commission to establish PEG obligations for OVS that are consistent with local needs and interests, and to impose on an OVS operator obligations equivalent to those obligations imposed on cable operators. To fulfill these mandates, the Commission should, as proposed by NLC, require OVS operators "to match or negotiate," that is, to match each incumbent cable operator's PEG obligations, or to negotiate agreements acceptable to the affected communities.

The record in this proceeding demonstrates that local governments -- as franchising authorities and PEG programmers -- play a critical role in insuring that local communications needs and interests are met.¹ Moreover, local governments, as the

¹. See, Comments of the Below-Named Political Subdivisions of the State of Minnesota at 7 (franchising authorities have "considerable experience in successfully negotiating, creating, and implementing ... PEG obligations"); Comments and Petition for Reconsideration of the National Cable Television Association, Inc. at 34 ("The local franchising authority is the governmental entity best positioned to appreciate community needs and most experienced

National Cable Television Association states, "are in the best position to deliver on the Act's intent to accomplish PEG access over open video systems."²

II. DISCUSSION

Pitt County encourages the Commission to develop regulations based on the service provided, not the service provider. In this regard, the Commission must recognize the need for local communities and their franchising authorities to have regulations and standards that are fair and universal based on the service offered. Pitt County's standards for all operators are outlined in its Communications Ordinance, a copy of which can be found attached to the *REPLY TO OPPOSITIONS TO PETITION FOR SPECIAL RELIEF* filed by Enstar/Falcon in CSR Nos. 4658-D, 4659-D, and 4662-D.

By adopting NLC's proposal, the Commission will ensure, among other things, that PEG access continues to serve local needs and interests in PITT COUNTY and will satisfy the Commission's statutory mandate to impose equivalent obligations on OVS and cable operators.

in the implementation of PEG access rules."); and Joint Comments of Cablevision Systems Corporation and the California Cable Television Association at 21 ("Congress certainly understood that PEG access requirements are now imposed by localities to meet critical localism goals").


² Comments and Petition for Reconsideration of the National Cable Television Association, Inc. at 33. See also, Comments of MFS Communications Company, Inc. at 27 ("The manner in which OVS operators and/or their customer programmers comply with the PEG obligations should generally be worked out between the programmer and local government.")

III. CONCLUSION

PITT COUNTY respectfully requests the Commission to adopt a framework for OVS consistent with the proposals and principles recommended by NLC et. al. in their comments.

This the 10th day of April, 1996.

PITT COUNTY LEGAL DEPARTMENT

BY: 
Pamela Weaver Best
Interim County Attorney
Attorney for Pitt County
1717 West Fifth Street
Greenville, NC 27834
(919) 830-6374